

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Heriberto Padilla,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:15cv448
vs.	:	
	:	Judge Susan J. Dlott
Warden, Chillicothe Correctional Institution,	:	
	:	
Respondent(s).	:	

ORDER

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Stephanie K. Bowman filed on February 10, 2016 (Doc. 11), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired February 29, 2016, hereby ADOPTS said Report and Recommendation.

Accordingly, respondent's motion to dismiss (Doc. 6) is GRANTED and petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) is DISMISSED with prejudice on the ground that the petition is time-barred under 28 U.S.C. § 2244(d).

A certificate of appealability will not issue with respect to any of the claims for relief alleged in the petition, which this Court has concluded are barred from review on a procedural ground, because under the first prong of the applicable two-part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), "jurists of reason" will not find it debatable whether the Court is correct in its procedural ruling.

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court will certify pursuant to 28 U.S.C. § 1915 (a)(3) that an appeal of any Order adopting the

Report and Recommendation will not be taken in “good faith,” and therefore DENY petitioner leave to appeal *in forma pauperis* upon a showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6<sup>th</sup> Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott  
Judge Susan J. Dlott  
United States District Court